

REFERENCE TITLE: premium tax credit; STO contribution

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

HB 2099

Introduced by
Representatives Yarbrough, Biggs, Senator Gorman: Representatives
Anderson, Barto, Burges, Clark, Crump, Groe, Kavanagh, McLain, Murphy

AN ACT

AMENDING TITLE 20, CHAPTER 2, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 20-224.06; AMENDING SECTION 43-1183, ARIZONA REVISED STATUTES; RELATING TO TAX CREDITS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:
Section 1. Title 20, chapter 2, article 1, Arizona Revised Statutes,
is amended by adding section 20-224.06, to read:

20-224.06. Premium tax credit for contributions to school tuition organization

A. THROUGH JUNE 30, 2012, A CREDIT IS ALLOWED AGAINST THE PREMIUM TAX LIABILITY INCURRED BY AN INSURER PURSUANT TO SECTION 20-224, 20-837, 20-1010, 20-1060 OR 20-1097.07 FOR THE AMOUNT OF VOLUNTARY CASH CONTRIBUTIONS MADE BY THE INSURER DURING THE TAX YEAR TO A SCHOOL TUITION ORGANIZATION.

B. THE AMOUNT OF THE CREDIT IS THE TOTAL AMOUNT OF THE INSURER'S CONTRIBUTIONS FOR THE TAX YEAR UNDER SUBSECTION A OF THIS SECTION THAT IS PREAPPROVED BY THE DEPARTMENT OF REVENUE PURSUANT TO SECTION 43-1183, SUBSECTION D.

C. THE PROCEDURES, CONDITIONS, LIMITATIONS, DEFINITIONS AND OTHER REQUIREMENTS PRESCRIBED BY SECTION 43-1183 APPLY TO:

1. INSURERS THAT CLAIM A CREDIT UNDER THIS SECTION.
 2. CLAIMS FOR CREDIT UNDER THIS SECTION.
 3. SCHOOL TUITION ORGANIZATIONS THAT RECEIVE CONTRIBUTIONS FROM
ERS FOR THE PURPOSES OF THIS SECTION.
 4. SCHOOLS THAT QUALIFY TO RECEIVE SCHOLARSHIP MONIES CONTRIBUTED BY
ERS FOR THE PURPOSES OF THIS SECTION.
 5. STUDENTS WHO RECEIVE SCHOLARSHIPS FROM MONIES CONTRIBUTED BY
ERS FOR THE PURPOSES OF THIS SECTION.

D. IF THE ALLOWABLE AMOUNT OF A CREDIT UNDER THIS SECTION EXCEEDS THE INSURER'S STATE PREMIUM TAX LIABILITY, THE AMOUNT OF THE CLAIM NOT USED TO OFFSET THE PREMIUM TAX LIABILITY MAY BE CARRIED FORWARD AS A CREDIT AGAINST THE INSURER'S SUBSEQUENT YEARS' PREMIUM TAX LIABILITY FOR A PERIOD NOT TO EXCEED FIVE TAXABLE YEARS.

E. A CREDIT IS NOT ALLOWED IF THE INSURER DESIGNATES THE CONTRIBUTION FOR THE DIRECT BENEFIT OF ANY SPECIFIC STUDENT.

F. THE DEPARTMENT OF INSURANCE, WITH THE COOPERATION OF THE DEPARTMENT OF REVENUE, SHALL ADOPT RULES AND PUBLISH AND PRESCRIBE FORMS AND PROCEDURES NECESSARY FOR THE ADMINISTRATION OF THIS SECTION.

Sec. 2. Section 43-1183, Arizona Revised Statutes, is amended to read:

43-1183. Credit for contributions to school tuition organization; definitions

A. Beginning from and after June 30, 2006 through June 30, 2011, a credit is allowed against the taxes imposed by this title for the amount of voluntary cash contributions made by the taxpayer during the taxable year to a school tuition organization.

B. The amount of the credit is the total amount of the taxpayer's contributions for the taxable year under subsection A of this section and is preapproved by the department pursuant to subsection D of this section.

1 C. The department:

2 1. Shall not allow tax credits under this section AND SECTION
3 20-224.06 that exceed in the aggregate,— a combined total of ten million
4 dollars in any fiscal year. Beginning in fiscal year 2007-2008, the
5 aggregate DOLLAR amount of the tax credit cap from the previous fiscal year
6 shall be annually increased by twenty per cent.

7 2. Shall preapprove tax credits UNDER THIS SECTION AND SECTION
8 20-224.06 subject to subsection D of this section.

9 3. Shall allow the tax credits UNDER THIS SECTION AND SECTION
10 20-224.06 on a first come, first served basis.

11 D. For the purposes of subsection C, paragraph 2 of this section,
12 before making a contribution to a school tuition organization, the taxpayer
13 shall UNDER THIS TITLE OR TITLE 20 MUST notify the school tuition
14 organization of the total amount of contributions that the taxpayer intends
15 to make to the school tuition organization. Before accepting the
16 contribution, the school tuition organization shall request preapproval from
17 the department for the taxpayer's intended contribution amount. The
18 department shall preapprove or deny the requested amount within twenty days
19 after receiving the request from the school tuition organization. If the
20 department preapproves the request, the school tuition organization shall
21 immediately notify the taxpayer, AND THE DEPARTMENT OF INSURANCE IN THE CASE
22 OF A CREDIT UNDER SECTION 20-224.06, that the requested amount was
23 preapproved by the department OF REVENUE. In order to receive a tax credit
24 under this subsection, the taxpayer shall make the contribution to the school
25 tuition organization within ten days after receiving notice from the school
26 tuition organization that the requested amount was preapproved. If the
27 school tuition organization does not receive the preapproved contribution
28 from the taxpayer within the required ten days, the school tuition
29 organization shall immediately notify the department OF REVENUE, AND THE
30 DEPARTMENT OF INSURANCE IN THE CASE OF A CREDIT UNDER SECTION 20-224.06, and
31 the department OF REVENUE shall no longer include this preapproved
32 contribution amount when calculating the limit prescribed in subsection C,
33 paragraph 1 of this section.

34 E. A school tuition organization that receives contributions under
35 this section OR SECTION 20-224.06 shall allow the department OF REVENUE to
36 verify that the educational scholarships and tuition grants that are issued
37 pursuant to this section are awarded to students who attend a qualified
38 school.

39 F. If the allowable tax credit exceeds the taxes otherwise due under
40 this title on the claimant's income, or if there are no taxes due under this
41 title, the taxpayer may carry the amount of the claim not used to offset the
42 taxes under this title forward for not more than five consecutive taxable
43 years' income tax liability.

44 G. Co-owners of a business, including corporate partners in a
45 partnership, may each claim only the pro rata share of the credit allowed

1 under this section based on the ownership interest. The total of the credits
2 allowed all such owners may not exceed the amount that would have been
3 allowed a sole owner.

4 H. The credit allowed by this section is in lieu of any deduction
5 pursuant to section 170 of the internal revenue code and taken for state tax
6 purposes.

7 I. The tax credit is not allowed if the taxpayer designates the
8 taxpayer's contribution to the school tuition organization for the direct
9 benefit of any specific student.

10 J. A school tuition organization that receives contributions under
11 this section OR SECTION 20-224.06 shall use at least ninety per cent of those
12 contributions to provide educational scholarships or tuition grants only to
13 children whose family income does not exceed one hundred eighty-five per cent
14 of the income limit required to qualify a child for reduced price lunches
15 under the national school lunch and child nutrition acts (42 United States
16 Code sections 1751 through 1785) and who either:

17 1. Attended a governmental primary or secondary school as a full-time
18 student as defined in section 15-901 for at least the first one hundred days
19 of the prior fiscal year and transferred from a governmental primary or
20 secondary school to a qualified school.

21 2. Enroll in a qualified school in a kindergarten program.

22 3. Received an educational scholarship or tuition grant under
23 paragraph 1 or 2 of this subsection if the children continue to attend a
24 qualified school in a subsequent year.

25 K. In 2006, a school tuition organization shall not issue an
26 educational scholarship or a tuition grant in an amount that exceeds four
27 thousand two hundred dollars for students in a kindergarten program or grades
28 one through eight or five thousand five hundred dollars for students in
29 grades nine through twelve. In each year after 2006, the limitation amount
30 for a scholarship or a grant under this subsection shall be increased by one
31 hundred dollars.

32 L. A child is still eligible to receive an educational scholarship or
33 tuition grant under subsection J of this section if the child meets the
34 criteria to receive a reduced price lunch but does not actually claim that
35 benefit.

36 M. The school tuition organization shall require that the children use
37 the educational scholarships or tuition grants on a full-time basis. If a
38 child leaves the qualified school before completing an entire school year,
39 the qualified school shall refund a prorated amount of the educational
40 scholarship or tuition grant to the school tuition organization that issued
41 the educational scholarship or tuition grant to the child. Any refunds
42 received by the school tuition organization under this subsection shall be
43 allocated for educational scholarships or tuition grants to qualified
44 children in the following year.

1 N. Children who receive educational scholarships or tuition grants
2 under this section shall be allowed to attend any qualified school of their
3 parents' choice.

4 O. A school tuition organization that receives a voluntary cash
5 contribution pursuant to ~~subsection A of~~ this section OR SECTION 20-224.06
6 shall report to the department OF REVENUE AND THE DEPARTMENT OF INSURANCE, in
7 a form prescribed by the department OF REVENUE, by June 30 of each year the
8 following information:

9 1. The name, address and contact name of the school tuition
10 organization.

11 2. The total number of contributions received during the previous
12 calendar year, IDENTIFIED FOR THE PURPOSES OF THIS SECTION OR SECTION
13 20-224.06.

14 3. The total dollar amount of contributions received during the
15 previous calendar year, IDENTIFIED FOR THE PURPOSES OF THIS SECTION OR
16 SECTION 20-224.06.

17 4. The total number of children awarded educational scholarships or
18 tuition grants during the previous calendar year.

19 5. The total dollar amount of educational scholarships and tuition
20 grants awarded during the previous calendar year.

21 6. For each school to which educational scholarships or tuition grants
22 were awarded:

23 (a) The name and address of the school.
24 (b) The number of educational scholarships and tuition grants awarded
25 during the previous calendar year.

26 (c) The total dollar amount of educational scholarships and tuition
27 grants awarded during the previous calendar year.

28 7. Verification that an independent review of financial statements
29 according to generally accepted accounting principles was completed by a
30 certified public accountant for the previous calendar year.

31 P. The department OF REVENUE, WITH THE COOPERATION OF THE DEPARTMENT
32 OF INSURANCE, shall adopt rules AND PUBLISH AND PRESCRIBE FORMS AND
33 PROCEDURES necessary for the administration of this section.

34 Q. For the purposes of this section:

35 1. "Qualified school" means a nongovernmental primary school or
36 secondary school:

37 (a) That is located in this state, that does not discriminate on the
38 basis of race, color, handicap, familial status or national origin and that
39 satisfies the requirements prescribed by law for private schools in this
40 state on January 1, 2005.

41 (b) That annually administers and makes available to the public the
42 aggregate test scores of its students on a nationally standardized
43 norm-referenced achievement test, preferably the Arizona instrument to
44 measure standards test administered pursuant to section 15-741.

1 (c) That requires all teaching staff and any personnel that have
2 unsupervised contact with students to be fingerprinted.

3 2. "School tuition organization" means a charitable organization in
4 this state that both:

5 (a) Is exempt from federal taxation under section 501(c)(3) of the
6 internal revenue code and that allocates ninety per cent of its annual
7 revenue for educational scholarships or tuition grants to children to allow
8 them to attend any qualified school of their parents' choice.

9 (b) Provides educational scholarships or tuition grants to students
10 without limiting availability to only students of one school.